

Before the
Federal Communications Commission
Washington, D.C. 20554

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SEP 16 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket No. 95-116
Telephone Number Portability) RM 8535

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications Inc., on behalf of its telephone subsidiaries, Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell. ("SBC") files these Reply Comments in response to Comments submitted by other commenters with regard to the Commission's Third Report and Order released in the above-captioned docket on May 12, 1998 ("Cost Recovery Order"). In the Cost Recovery Order, the Commission requested comments on how incumbent local exchange carriers ("ILECs") should apportion joint costs among local number portability ("LNP") and other services.¹ Despite the distortion of the Commission's Cost Recovery Order offered by AT&T,² the Commission's clear intent is to permit the ILECs to recover those costs, including joint costs, which it might validly claim as attributable to LNP. The only issue is one of apportionment. These Reply Comments address this issue.

¹ Although SBC in its Comments filed on August 3, 1998 addressed the Commission's query, other commenters did not, improperly seeking to resurrect issues which the Commission has already resolved or raising contentions applicable to the pending Petitions for Reconsideration related to the Cost Recovery Order. These Reply Comments do not address these superfluous arguments and SBC would encourage the Commission to disregard those comments unrelated to the issues designated for comment in the Cost Recovery Order as irrelevant.

² AT&T, pp. 1-3.

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I. A VARIABLE "BUT-FOR" TEST PROVIDES THE MOST VIABLE MEANS FOR APPORTIONING JOINT COSTS.

Several commenters propose a variable "but-for" test as a possible means for apportioning joint costs.³ As GTE explains, "...in appropriate circumstances and with proper demonstration, carriers should be permitted to treat the full cost of upgrades for switch hardware and software, OSS, SS 7, or other network modifications as directly related to the provision of number portability cost category."⁴ AT&T breaks its analysis down into a two-prong test: (1) Has an incremental investment been made or a new expense been incurred because of the ILEC's obligation to implement LNP and (2) does the cost incurred for this purpose also support services or functionalities other than number portability?⁵

SBC supports the proposition that if the impetus for the investment or expense is an ILEC's LNP obligation, the costs should be recoverable. If the decision to upgrade or modify a system was to advance some other purpose, regardless of whether LNP is also served by the modification or upgrade, then these costs are not recoverable. While AT&T's analysis appears feasible, when SBC attempted to allocate what were clearly costs incurred to implement LNP among LNP and other services which might potentially be served by the modification or upgrade, it encountered significant obstacles. Moreover, if AT&T's analysis is taken to its natural conclusion, then the reverse should also be true,

³ AT&T, p. 3; USWest, pp. 9-12; GTE, pp. 3-6.

⁴ GTE, p. 4.

⁵ AT&T, pp. 4-5.

i.e., the costs of an investment made for reasons other than LNP implementation also should be allocated among LNP and the other services and functionalities served through the investment.

By utilizing the date of the Commission's First Report and Order, when the ILECs' obligation to implement LNP was first defined, an ILEC can objectively demonstrate that the costs of certain upgrades, modifications and new equipment/hardware and software purchases properly constitute Type 2 costs. If LNP-related modifications, upgrades or other purchases were contractually arranged after this date, there should be a rebuttable presumption that such costs are properly recoverable.⁶ If it is necessary for a carrier to demonstrate what portion of these costs are allocable to LNP, the carrier should be permitted to rely upon the assessment of the vendor regarding the LNP capabilities. Of course, if a modification or upgrade is not LNP related, then such costs are not recoverable.

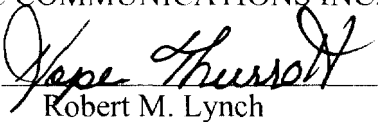
⁶ This position appears to be consistent with AT&T's assumption that costs incurred prior to LNP implementation are not recoverable. AT&T, p. 4.

II. CONCLUSION

The approach proposed by SBC in its Comments filed August 3, 1998 provides a clear and uncontrovertible means for the allocation of joint costs. Only by implementing a simple objective standard can the Commission avoid future controversy related to an ILEC's categorization of these costs. For this reason, SBC encourages the Commission to adopt the methodology proposed by SBC's earlier Comments in this proceeding.

Respectfully submitted,

SBC COMMUNICATIONS INC.

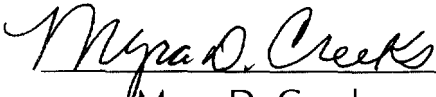
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CERTIFICATE OF SERVICE

I, Myra D. Creeks, hereby certify that the foregoing, "Reply Comments of SBC Communications, Inc.," in CC Docket No. 95-116, RM 8535 has been filed this 16th day of September 1998, to the Parties of Record.


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